

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP
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Attorney for WELLS FARGO BANK, N.A.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:	§ CASE NO. 16-31569-HDH-13
	§
IRMA LAURA GONZALEZ,	§
Debtor	§ CHAPTER 13
	§
WELLS FARGO BANK, N.A.,	§
Movant	§ HEARING DATE: 12/19/2018
	§
v.	§ TIME: 01:30 PM
	§
IRMA LAURA GONZALEZ;	§
THOMAS POWERS, Trustee	§
Respondents	§ JUDGE HARLIN D. HALE

**MOTION OF WELLS FARGO BANK, N.A.
FOR RELIEF FROM STAY OF ACTION AGAINST DEBTOR(S) PURSUANT TO 11
U.S.C. § 362(a) AND WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO
§ 362(e)**

NOTICE - RESPONSE REQUIRED
**PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS
REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY
BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT
MAY BE ENTERED BY DEFAULT.**

**ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE
UNITED STATES BANKRUPTCY COURT AT EARLE CABELL U.S.
COURTHOUSE, 1100 COMMERCE STREET, IN ROOM 1254, DALLAS, TX 75242
BEFORE CLOSE OF BUSINESS ON DECEMBER 12, 2018, WHICH IS AT LEAST 14
DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED
UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER
APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND
COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE
"ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED.**

HEARING PARTICIPANTS ARE NOTIFIED THAT ABSENT COMPELLING CIRCUMSTANCES, EVIDENCE PRESENTED AT PRELIMINARY HEARINGS IN THE DALLAS DIVISION ON MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY WILL BE BY AFFIDAVIT ONLY. THE PARTY REQUESTING THE HEARING MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 7 DAYS IN ADVANCE OF SUCH HEARING; THE RESPONDING PARTY MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 48 HOURS IN ADVANCE OF SUCH HEARING

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, WELLS FARGO BANK, N.A., by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about April 19, 2016, Debtor (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C.
3. At the time of filing the Chapter 13 petition, Movant held a Note executed on December 14, 2006, by IRMA L GONZALEZ in the original amount of ONE HUNDRED ONE THOUSAND TWO HUNDRED ONE DOLLARS AND NINETY-THREE CENTS (\$101,201.93) with interest thereon at the rate of 7.865% per annum. A true and correct copy of the Note is attached hereto as Exhibit "A".
4. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.
5. The indebtedness is secured by a Deed of Trust dated December 14, 2006 and executed by IRMA L GONZALEZ on real estate with all improvements known as:

BEING LOT 6 AND 7, BLOCK E/4146 OF BEVERLY HILLS ANNEX, AN

ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS,
ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2, PAGE
80, MAP RECORDS, DALLAS COUNTY, TEXAS

A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B".

6. Debtor has failed to maintain current the post-petition payments due under the Note and as of October 29, 2018 is presently in arrears for 3 payments through and including the October 15, 2018 payment.

7. The outstanding indebtedness to Movant is \$87,827.29 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Deed of Trust.

8. In accordance with the terms of the Note and Deed of Trust, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

9. Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

10. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Deed of Trust.

11. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

12. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all post-petition payments brought current. Movant further prays that the Court waive the

provision of Rule 4001 (a) (3) and that WELLS FARGO BANK, N.A. be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

BY: /s/ HEATHER GRAM-CHAVEZ 11/28/2018
HEATHER GRAM-CHAVEZ
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ATTORNEY FOR MOVANT

CERTIFICATE OF CONFERENCE

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, represents the creditor on the foregoing Motion. The undersigned, an attorney, employed by BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, states that prior to filing the foregoing motion he/she did the following:

Made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel and/or the Trustee.

NOTES: Heather Gram-Chavez sent an electronic message to Debtor's Counsel regarding the foregoing Motion.

Date of Conference Call: November 26, 2018 2:49 p.m.

BY: /s/ HEATHER GRAM-CHAVEZ 11/28/2018
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ATTORNEY FOR MOVANT

CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2018, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

/s/ HEATHER GRAM-CHAVEZ 11/28/2018

HEATHER GRAM-CHAVEZ

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ATTORNEY FOR MOVANT

DEBTOR:

IRMA LAURA GONZALEZ
307 LILLIAN ST
DALLAS, TX 75211

TRUSTEE:

THOMAS POWERS
105 DECKER COURT
SUITE 1150
IRVING, TX 75062

US TRUSTEE:

1100 COMMERCE STREET
ROOM 976
DALLAS, TX 75242

DEBTOR'S ATTORNEY:

M PAUL WRIGHT
2501 MAIN ST.
STE 100
DALLAS, TX 75226

PARTIES IN INTEREST:

DALLAS COUNTY TAX OFFICE
500 ELM ST
DALLAS, TX 75202

PARTIES REQUESTING NOTICE:

LINEBARGER GOGGAN BLAIR & SAMPSON LLP
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DALLAS, TX 75207